

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**WHITNEY NATIONAL BANK,**

**Plaintiff,**

**v.**

**HIGHWAY SOLUTIONS, LLC;  
MICHAEL C. MARCATO and  
ANNE S. MARCATO,**

**Defendants.**

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**CASE NO.: 2:07-cv-415-ID**

**ANSWER**

Defendant Highway Solutions, LLC, by and through undersigned counsel, hereby answers the allegations of Plaintiff's Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Admitted.
12. Admitted.

- 13. Admitted.
- 14. Admitted.
- 15. Admitted.
- 16. Admitted.
- 17. Admitted.
- 18. Admitted.
- 19. Admitted.
- 20. Admitted.
- 21. Admitted.
- 22. Admitted.
- 23. Admitted.

**COUNT I**

- 24. Highway Solutions realleges its answers to the preceding paragraphs of the complaint as if fully set forth herein.
- 25. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.
- 26. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.
- 27. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.
- 28. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

29. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

30. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

31. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

32. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

33. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

34. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

35. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

36. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

37. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

38. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

39. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

40. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

41. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

42. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

43. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

44. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

45. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

46. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

47. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

48. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

49. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

50. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

51. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

52. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

## **COUNT II**

53. Highway Solutions realleges its answers to the preceding paragraphs of the complaint as if fully set forth herein.

54. Admitted.

55. Admitted.

56. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

57. Highway Solutions can neither admit nor deny the allegations of this paragraph of the Complaint as Plaintiff's allegation refers to an unidentified date.

58. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

59. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

60. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

61. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

62. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

63. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

**COUNT III**

64. Highway Solutions realleges its answers to the preceding paragraphs of the complaint as if fully set forth herein.

65. Admitted.

66. Admitted.

67. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

**COUNT IV**

68. Highway Solutions realleges its answers to the preceding paragraphs of the complaint as if fully set forth herein.

69. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

70. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

71. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

72. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

73. Highway Solutions denies the material allegations of this paragraph and demands strict proof thereof.

**AFFIRMATIVE DEFENSES**

1. Highway Solutions pleads the general issue and denies each and every material allegation of Plaintiff's Complaint and demands strict proof thereof.
2. The claims set forth in Plaintiff's complaint fail to state a claim upon which relief can be granted.
3. Highway Solutions pleads set-off.
4. Highway Solutions alleges that Plaintiff was contributorily negligent, assumed the risk or otherwise has unclean hands.
5. Highway Solutions reserves the right to assert a counterclaim or third party claim relating to the allegations asserted in the Complaint.
6. Highway Solutions raises the protections afforded it pursuant to the Chapter 11 Bankruptcy filings of Anne and/or Michael Marcato in the United States Bankruptcy Court for the Middle District of Alabama, Case No. 07-30824.

s/J. David Martin  
Robert D. Segall (ASB-7354-E68R)  
J. David Martin (ASB-7387-A54J)  
Copeland, Franco, Screws & Gill, P.A.  
444 South Perry Street (36104)  
Post Office Box 347  
Montgomery, Alabama 36101-0347  
Telephone: (334) 834-1180  
Facsimile: (334) 834-3172  
Email: [segall@copelandfranco.com](mailto:segall@copelandfranco.com)  
Email: [martin@copelandfranco.com](mailto:martin@copelandfranco.com)

**COUNSEL FOR DEFENDANTS,  
Highway Solutions, LLC  
Michael and Anne Marcato**

**CERTIFICATE OF SERVICE**

I hereby certify that on 2<sup>nd</sup> day of July, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- **Dennis R. Bailey**  
[drb@rsjg.com](mailto:drb@rsjg.com), [pk@rsjg.com](mailto:pk@rsjg.com)
- **Bowdy Jerome Brown**  
[bjb@rsjg.com](mailto:bjb@rsjg.com)

s/J. David Martin  
Of Counsel